

THE *Shf 6*
King's Authority

IN DISPENSING with
Ecclesiastical Laws,
Asserted and Vindicated.

By the late Reverend
PHILIP NYE,
A Congregational Divine.

L O N D O N;
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TO THE

King's most Excellent Majesty,

J A M E S,

By the Grace of God,

Of *England, Scotland, France, and Ireland,*
KING, Defender of the Faith, &c.

May it please Your Majesty ;

YOUR Gracious Declaration for *Liberty of Conscience*, is such an instance of the tender care You have of each Man that hath the happiness to be Your Subject, that it as well ex-acts

The Epistle Dedicatory.

acts the Service of every one in particular, as the Universal Applause.

Great Sir,

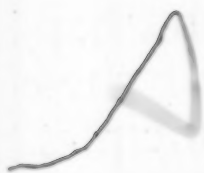
Having no better opportunity to express my Gratitude, I lay at Your Royal Feet these Sheets, wrote by my deceased Father, occasioned by his late Majesty's Declaration. May they be instrumental to promote the Designs of Your Princely Clemency; May every Individual in Your Kingdoms, enjoy their Consciences and Property; May your Parliaments serve you in all those healthful Laws which
may

The Epistle Dedicatory.

may appease our Differences, and secure our Peace ; so that not only the present Age, but likewise Posterity, may bless your Reign for introducing so compassionate an Indulgence. These Blessings for you, and us ; and that you may live long and happily in the pursuance of these merciful and noble Principles, are the Prayers of

Your Majesty's
most obedient Subject,

HENRY N. E.



Prohibition Subject

HENRY W. H.

A

(1)

A DISCOURSE of Ecclesiastical Laws,
and Supremacy of the Kings of *England*,
in Dispensing with the Penalties of such
Laws.

C H A P. I.

The Case and State of the Question.

THE King's Power and Jurisdiction in Ecclesiastical Affairs, may fall under a three-fold Consideration : as, First, put forth by himself ; Secondly, by Commission granted to Ecclesiastical Persons, and exercised in those Courts we term Spiritual or Ecclesiastical. Thirdly, Or such Affairs are managed and ordered by him in Parliament, and the Authority thereof.

The Form in which these Ecclesiastical Laws are expressed unto us, is this ; " Be it enacted by the King's most excellent Majesty, by and with the Advice and Consent of the Lords " Spiritual and Temporal, and Commons in Parliament assembled, and by the Authority of the same, &c. Meerly to advise and consent, imply no more Authority in the establishment of Ecclesiastical Laws, than what was put forth in the Convocation in their Canons ; but it being added, *by the Authority of the same*, this Authority thus mentioned, may be construed, either relating to the Advice and Consent of the

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Lords

Lords and Commons in Parliament, a Suffrage more than an Advice or bare Consent ; for it implieth, when Bills are formed, read, debated, and assented to by both Houses, they were then stamped with some kind of Parliamentary Authority : Or it is to be interpreted, relating to King, Lords, and Commons ; and which is likely, for Consultations of Parliament, tho concluded by Vote, yet become not formally a Law, until his Majesty hath given his Royal Assent.

And in this sense, Ecclesiastical Laws and Orders, which are Enacted and Established by Statutes, have as formal a Sanction (being not only by Authority of the King, but by Lords and Commons assembled in Parliament) as other Laws wherein our Civil Interests are concerned, namely, a joint, and not the single Power of either.

This being granted, (rather than needlessly to dispute those highest Interests) and thence also inferred, That as these Ecclesiastical Laws have their Rise, Vigour, and Strength, so their Diminution and Abatement from conjunction of both Powers ; and are more fixed and stable than those Canons and Orders in Ecclesiastical Matters, that have their Sanction from the King only.

To this I say briefly ; *Altho Men may be Tenants in Common, yet none can be joint Tenants with the King.* These Powers are not equal, the King hath the Supremacy, and is thereby enabled to such Acts and Orderings about the Penalties of our Laws, as are peculiar to the Crown and Dignity of a King ; as in Mitigating, Exempting, Dispensing, Licensing, Pardoning, &c. and all this more especially in Ecclesiastical Matters, as by the following Discourse will appear.

S E C T. I.

This Power and Superiority exercised by the Kings of England, in relation to the Penalties of such Penal Laws of both sorts shall be spoken to in these two Particulars.

I. That

- I. That such an Authority and Supremacy is necessary, and ought to be placed in some Hand.
- II. That it is a Dignity which hath always been placed in the Kings and Queens of this Realm.
- I. For the former ; In all Policies and Forms of Government, as there is a Rule which is to be the Measure and Square to, and by which all Mens Actions that live under that Polity, are ordinarily to be conformed and judged ; so is there always some provision made for mitigating the Rigour of the Rule, in Cases which may fall out and cannot be foreseen by the wisest Legislators ; and in such cases to exercise *Summum jus*, would be *Summa injuria* : therefore there is here, not only a Power to judg, as the case stands in the strict Letter of the Law, but as there are Courts of Law, so are there Chanceries, Courts of Equity and Conscience, wherein the Law and Rule it self is dispensed with, and varied from ; and the Proceedings there are not according to the strict Terms of Law, but *secundum equum & bonum*, as the Merit of the Case in it self may require.

1. For Laws constituted for a whole Nation universally, to be submitted to by Persons of what quality soever, and how much soever different in their Conditions, must needs, in their strict execution, bear harder upon some Men than others, Parliaments in their Laws going by the Rule of (*Ad ea quæ frequentius accidunt*, &c.) and better an inconvenient Mischief, than an Inconvenience.

It is taken for granted, that a general Law which hath its Good and Necessity, in respect to the Bulk and Body of a People, may prove unequal to particular Persons from the Circumstances of their present Condition. In a Common Wealth the Ease and Benefit of each particular Person, of what Degree or Condition soever, is to be consulted ; but where Laws are executed in their full rigour, and no Mercy or Indulgence to particular Persons, in special and unusual

Cases, it will not be so. God himself, who knoweth every Man's Heart, yet some of his Laws that are given in general to all, would not prove so equal to each at all times, without exemptions in particular Cases. Hence we say, Affirmative Precepts bind not *ad semper*; to such Laws is that of *Mark* 2. 26. in the Case of Shew-bread to be referred. And the Pope, who assumes to himself a possibility not to Err, yet how doth his Republick abound in Courts for Faculties, Dispensations, Indulgences, &c.

2. It's also to be considered, there are no Societies of Men but may err in their Councils; Laws made in one Parliament come to a Review, and often to an Alteration, yea Repeal in the next: The Intervals of those great Councils are sometimes long, and if no way of Relief were in the mean time, the Subject would, without Remedy, undergo the penalty of an unequal Law.

These and the like Considerations make it necessary, that besides the Legislative Power placed in the Parliament, that there be some Hand or other also, by which upon all emergent Occasions, the rigour of a Law as to its Penalty may be abated, by the means whereof, not only Mens Liberties and Estates, but Lives also are sometimes preserved.

S E C T. 2.

2. This Ballance hath always been trusted in the Hand, and annexed to the Sovereign Majesty of every State; for this Interest doth little vary, but remaineth in a manner the same in all Republicks, in what Form soever they be established. In the State of *England*, being an Empire, and its Crown in many Acts of Parliament (especially relating to these Matters) stiled Imperial; this Power is inseparably annexed thereunto, which needs little proof, it being confirmed by the Oath of Supremacy. An Oath is the End of a Controversy. Our great Lawyers also give in their Suffrage here.

hereunto, frequently affirming that the Statutes relating to the King's Ecclesiastical Jurisdiction; are not introductive of New, but declarative of the old Law.

When an Act, say both those two Learned Judges, Cooke and Rolls, forbiddeth under a Penalty, in case it may be inconvenient to divers particular Persons, in respect of Circumstances, the Law gives Power to the King to dispense therewith.

And in like Cases, or upon other Considerations equal, he may Dispense, License, Pardon, &c. Yea, although those Laws have been passed by his Majesty's Royal Assent formerly; and (which is more) a Clause inserted in the Act, that the King's Licence or Dispensation in this or that Case, shall be void: Yet it will be no Bar to such Prerogatives as are inherent and originally inseparable to his Royal Person, but he may give Licence with a *Non Obstante* thereunto. A learned Serjeant, in his *Nomotechina*, hath these words, *The King by a Clause of Non Obstante, may dispense with a Statute Law, if he recite the Statute, though the Statute say such Dispensations shall be merely void. And he may License Things forbidden by the Statutes, as to coin Money, which is made a Capital Offence by the Statute, and was before lawful, for that it is but malum prohibitum; but malum in se, as to leave a Nuisance in the Highway, he cannot license to do; but when it is done he may pardon it; but where the Statute saith, his License shall be void, which the Civilians call Clausula derogativa, there it must have a Clause of Non Obstante, that is to say, this Clause notwithstanding any Statute, else it is not good.* And says the same Author, *He may, in respect of his Supream Ecclesiastical Jurisdiction, exempt some from the Jurisdiction of the Ordinary, and dispense with others in things which the Ecclesiastical Law prohibits, upon the same ground that they are not mala in se, but prohibita.* I hold clear (saith Judg Hobart) that though the Statute says, *That all Dispensations, &c. shall be granted in manner and form following, and not otherwise; that*
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yet the King is not thereby restrained, but his Power remains full and perfect as before; and he may still grant them as King.

The King may remit the Penalty or Punishment of those Laws, which he hath no power to dispense with, as where what is forbidden by the Law is *Malum in se*, saith the Serjeant in his aforementioned Discourse of Law, much more then when what is forbidden is only *Malum prohibitum*.

The Statute indeed of the 9th of Edw. 2. Cap. 7. enacts, That no Letter shall proceed from the King to discharge an Excommunicated Person, but where the King's Liberty is prejudiced: But as this Statute it self proves the Law and former Practice, so it takes it not away, since the King's Liberty of discharging such Persons used before, is preserved by the same Statute.

C H A P. II.

Of the Prerogatives and Regal Powers, in Relation to Ecclesiastical Laws, and Matters of Religion.

S E C T. I.

1. **R**eligion in the moral Parts thereof, the Precepts and Commandments of God, the Institutions and Ordinances of Christ, these are not subject to any Humane Wisdom or Power. The Apostles, that were of higher Authority in these Affairs than any on Earth, went no farther, but as 1 Cor. 11. 23. *What I have received of the Lord, that I delivered unto you.* To make Laws in Spiritual Matters, that are such by the Light of Nature, that Men may be moved to Duty, and act according to their Light, we yield to the Civil Magistrate as he is *Custos utriusque Tabulae*.

2. There

2. There are Matters of Circumstance also, and *external Forms in Worship, tending to Order and Decency*: These and the like are made by our Laws, to depend upon the Power and Ordering of the Prince. This Distinction you have laid down as Law by *Judge Hobart*; his words are these: *Tho it be de Jure Divino, that Christian People be provided of Christian Offices and Duties, of Teaching, Administration of the Sacraments, and the like; and of Pastors for that purpose, and therefore to debar them wholly of it, were expressly against the Law of God; yet the Distinction of Parishes, and the Form of furnishing every Parish Church with his proper Curat, Rector, or Pastor, by the way of Presentation, Institution, &c. as is used diversly in divers Churches; and the State or Title which he hath, or is to have in his Church, or Benefice, is not a positive Law of God in point of Circumstance. And we know well that the Primitive Church in its greatest Purity, were but voluntary Congregations of Believers, submitting themselves to the Apostles, and after to other Pastors, to whom they did minister of their Temporals as God did move them. Government is a Beam of Divine Power, and therefore he proceeds, saying, If a People will refuse all Government, it were against the Law of God; but if a Popular State will receive a Monarchy, it stands well with the Law of God. In the Case of Glover and Cole, against the Bishop of Coventry and Litchfield.*

From all this the Judge seems to confirm his Distinction by way of Comparison thus; As in Humane Affairs, Government in the General and Essentials of it, (that one Man be Subject to another Man in an orderly way) is necessary and *Jure Divino*, and not in Man's Liberty or Dispose; But for the Modes and Forms of Government, and like Circumstances, it is left to the wisdom and choice of Men, and the conduct thereof. So in Matters of Religion, what is not *Jure Divino*, such *external Forms and Rites tending to a more orderly and decent administration in the Worship and Service of God.*

God, our Law judgeth the Magistrate hath the ordering hereof in each Nation, according to the Manners and Tempers of the People, which is Various.

And in particular, the Disposing of Pastors and People, for the more convenient and orderly Service and Worship of God, to be only *Jure Humano*, and may be otherwise, and was so in the Primitive Church in her greatest purity. Pastors and People were not then (as now) engaged in this Relation, and one to another, by a Parochial Bond or Tye: but enjoyed a Christian Liberty, voluntarily to dispose of themselves under such or such a Ministry as they should make choise of to themselves. The Church is said in this State to be in greatest purity. The Congregational-way therefore is not a way (in this learned Judge's Opinion) of Disorder and Confusion, as is frequently suggested.

2. And that it is in the Power of Supream Majesty to dispense with a Parishioner, as well as with a Pastor or Rector, *in such a Case, that is, to remove from his Parish to another, for more suitable Enjoyments, as for a Rector upon his Majesty's Dispensation, to be a Non-resident and take another Rectory, the division of Parishes being Jure Humano.*

What those Things and Matters of Religion are (in the Judgment of our State) that comes under the Manage of humane Wisdom and Power, are well expressed in Queen Elizabeth's Advertisement. *These Orders and Rules ensuing have been meet and convenient to be used and followed; yet not prescribing these Rules as Laws, equivalent with the Eternal Word of God, and as of necessity to bind the Consciences of our Subjects, in the nature of them, considered in themselves; Or as they should add any Efficacy, or more Holiness to the Vertue of Publick Prayer, and to the Sacraments, but as temporal Orders, meerly Ecclesiastical, without any vain Superstition, and as Rules in some part of Discipline, concerning Decencies, Distinction and Order for the time.* And in the Articles of 1562, *It is*

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not necessary that Traditions and Ceremonies be in all Places one, or utterly alike; for at all times they have been divers, and may be changed according to the diversity of Countries and Mens Manners, so that nothing be ordained against God's Word.

It is granted, that even these Ecclesiastical Laws ought to be conformable to the Word of God, and to those General Rules (laid down in the Scriptures for ordering the Worship and Service of God in the Churches) as, *Let all things be done decently and to Edification; Give no offence to Jew or Gentile,* and the like, and not to be the meer inventions of Men.

That distinction some would make of things *against*, or contrary, and what is *according* to the Word of God, the one they apply to Matters of Faith, the other to Matters of Order. It is a Distinction without a Difference; there is more Wit than Truth in that Interpretation of Christ's Words, *He that is not with me, is against me*; and in another place, *he that is not against me, is with me*; applying the one to Matters of Faith, the other to Matters of Order. There is no such distinction to be made, but Rites, Ceremonies, and Matters of Order, ought to be according to God's Word, as well as Matters of Faith. Magistrates are to judg, *Circa Res Ecclesiasticas de iis si Fidei sint dogmata, Vel ritus et Ceremonia earumq; Veritatem et Equitatem; juxta Verbi Divini normam* (Mocket de pol. Eccl. Angl. cap. 3.) And the Power of the King stands not in forming new Articles of Faith, or Forms of Religion, such as were *Jeroboam's Calves*; but in defending and propagating that Faith and Religion, of which God in the Scriptures is the undoubted Author, (saith *Mason* of Bishops, lib. 3. cap. 5.)

It is evident those Holy Men, our first Reformers, made no such distinction, but that all should be done *according* to God's Word, laying before them these general Rules in Scripture, (even in retaining what hath been so offensive). For of the retaining Ceremonies, there is this account by

them given, *Because they appertain to Edification; whereunto all things done in the Church, as the Apostle teacheth, ought to be referred.* And of our Liturgy, thus; *There is nothing to be read but the very pure Word of God, and the Holy Scriptures, or that which is evidently grounded upon the same,* (Preface to the Common-Prayer Book). God be thanked (saith good King Edward the 6th) *we know both what by his Word is meet to be reformed, and have amended, &c.*

It is convenient thus distinctly to have insisted upon what we term Religion, or Matters Ecclesiastical, according to that sense in which the Civil Magistrate assumes to himself the ordering thereof: And what influence the Scriptures, and Authority of God, hath, or ought to have in these Rites of the Church, and Matters of Order, as well as in Matters of Faith; for hereby it appears whence it is Mens Consciences are more concerned in these Laws, than in other Municipal Laws of the Nation. And that the not being free to submit to these Ecclesiastical Laws, when not formed according to God's Word, is no Evidence of that Seditious Spirit that kicks against all Laws.

S E C T. 2.

There is a necessity, and that of much greater importance, Provisions be made of Dispensations, &c. as occasion shall be, in respect to Laws Ecclesiastical, than in Civil.

In Matters of Religion, and the Worship of God:

1. Multitudes there are of loose and profane Persons; in respect to such, neither are the Laws in themselves, nor in the execution of them, severe enough.
2. Against Popish Recusants the Laws have been severe enough, yet in the execution great moderation.
3. There are those, and blessed be God great Multitudes, who are not only Orthodox in Faith, but of unblamable

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Life in the greater Things of Law and Gospel. These are fallen under most severe Laws, and of late with greatest severity put in execution, and utterly ruin'd, if there be no means of relaxation: It is in behalf of these I argue this Necessity, and that from these and the like Considerations.

1. There is a greater proneness in Conscientious Men to scruple and to be doubtful in their Obedience to the Ecclesiastical, than to the Civil Laws of a Nation, as before.
2. Great Difficulty in forming Laws, wherein Mens Consciences are immediately concern'd, so as not to dissatisfy some, if not many.
3. If those Laws be not according to Scripture, in the apprehensions of those that are to obey, whatsoever they are in themselves, it is our Sin if we obey; it is not so in Civil Commands.
4. It is not of so ill Consequence for us to yield Obedience to a Civil, as to an Ecclesiastical Law, if ill constituted by the State.
5. From what is found (in a manner peculiar in these our Ecclesiastical Laws, and the Administration of them) many ways prejudicial to the Subject, there is a necessity some such provision of this kind be found on our behalf.
1. The real Scruples and Doubts about our Obedience in these Ecclesiastical Matters, cannot but be more and greater than in other Laws. The knowingest Man in these Things knoweth but in part; and the most Men have but a parcel

in this part. It is true, the Principles and great Matters of Religion, are in great perspicuity laid down in the Scriptures, which give knowledg to the Simple, but these matter of Circumstance and external Order, we have for the most part in Generals only, and hints from Examples and Customs of the Apostolick Churches; in the interpretation whereof the most Learned find Difficulties, and are divided. Now the want of Knowledg is the ground of Scruples and Doubts in our Practice, 1 Cor. 8. 7. for the working of Conscience is from the ultimate Resolution of our practical Understanding. And hence it is that the same practice may be not only scrupled, but a Sin to one Man which is not to another, upon account of different Apprehensions; there may be notwithstanding Integrity and Sincerity in both, and therefore tenderly to be dealt with, as the Apostle requires, *Rom. 14.*

2. A great Difficulty there is to form Ecclesiastical Laws (they being to be the same where Uniformity is much stood upon for a whole Nation) as not to leave grounds of Dissatisfaction to many; Mens Apprehensions being various through the Degrees of Light; inasmuch as that may be Sin to one Man, that is a Liberty to another of a greater degree of Light. A little is next to nothing, and what is indifferent is nearest in likeness to moral Good or Evil; hence so easy and frequent Mistakings: And as it is with particular Persons, so may it be with a Society or Company of Men. One true Church in these Things differing from another, and the same Church differs from it self upon further Discoveries. A Synod, a Parliament, they may judg such and such Things to be indifferent, that those that are to submit may sincerely scruple and stick at as Sin. If Churches and Men, savingly enlightned, are thus exposed to vary in their Apprehensions, we cannot be confident of any Council or Assembly made up of

of the most wise and prudent Men. Parliaments are chosen by Vote of the promiscuous Multitude, with respect (we would hope) to their Sufficiency in managing of our Civil and Temporal Concerns, but their Skill and Ability to discern and judg of Matters appertaining to Order in the Service and Worship of God, all Men have not this Knowledge, this is little or not at all attended by those that elect them; by reason whereof, Matters wherein Mens Consciences are concerned, are not at all times carried by those that are most Conscientious in that Assembly, who are not always the Major part, yet notwithstanding are engaged in their Consciences to assent and consent to such Determinations being made, though possibly near one half in number dissented in the passing of them; and it is unavoidable in all and the best Assemblies that are chosen by the general Suffrage of a Nation.

3. Again, these Matters of Ceremony, and External Order, are sometimes managed in part with respect to a Party different in their Apprehensions, and thereupon form those Laws, with respect to Prudence as well as Conscience. In our first Reformation, it is said, such Superstitions are taken away, *as Time would serve quietly to do it*. And many things were left remaining in our Liturgy, (which otherwise would have been removed) in compliance with that Form of Divine Service, used before by the Papists, that they may not be provoked, but rather won thereby to our Religion. Womens baptizing was continued in our *Liturgy* (saith the Bishop of *Worcester*) else the Book would not have passed the House, (Conference at *Hampton Court*). King *James* was once willing, that some Ceremonies giving Offence should be removed; but the Parliament then sitting thought it not prudent. And our Gracious King would have done a greater Matter for the Ease of Tender Consciences, (as appears by
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some of the Declarations herein after mentioned) but it stood not with the Prudence of the House, as they expressed in their Answer; without whose Concurrence his Majesty thought not fit then to do it.

4. From mistaken Principles: As that there can be no Unity without Uniformity; there can be no Discipline in a Church, without some Ceremonies of Humane Institution. Things indifferent become necessary in Worship, being imposed by Authority; what Things in matters of Order are once established, and sometimes continued in the Church, may not with safety be altered.

These Things I offer not to derogate from Parliaments in their manage of such Affairs, but upon this serious Account only, To shew, that as our Civil Laws have made provision that the Church shall not in their Laws and Canons, order any Thing against Prerogative of the King, or the Laws and Statutes of this Realm in general, and that such Canons shall not be in force, (25 *H. 8.* 19.) So likewise Laws and Statutes in Ecclesiastical Affairs, established by the Civil Power, if they be found to derogate from the Prerogative of Christ Jesus, or the Laws and Institutions of his Kingdom, ought not to be in force upon Mens Consciences. As Churchmen being supposed not to be so well understood in Secular Laws, but may transgress; so may Secular Persons likewise, in their ordering about Church Affairs: There is therefore the like necessity of a Power to review, judge, and dispense with such Laws as shall be found to disturb the Consciences of peaceable Subjects, as occasion may urge thereunto. *Hen. 8.* by Commission (which was continued by *Edw. 6.*) appointed thirty two Persons, eight of each Profession, to peruse the Canons of the Clergy then in force, to the end those might be removed that were any ways against the Crown and State. Those Kings might have done the like, in respect
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to those Canons and Ecclesiastical Laws enacted in Parliament, if they be found to derogate from Christ or his Institutions, or justly offensive to the Peaceable and Godly, that Dispensations might be granted for the present, until farther Reformation be obtained.

S E C T. 3.

The Municipal Laws of a Nation, are from and conformed to the Principles of Right Reason and Common Justice only; and we have submitted our selves to the Resolutions of those wise and prudent Senators we our selves have made choice of, to enact and establish such Laws for us, and therefore may acquiesce in their Determinations without further inquiry, having given a kind of absolute pre-consent to such Laws as shall be enacted by them.

But it is not so in Ecclesiastical Laws entrusted with the same Persons, for as they are to be formed according to God's Word, which every Man is to take as his immediate Rule, and not to do or submit to any thing in his practice that hath the Notion of Religion, but what is conformable thereunto, he is to live and act by his own Faith. To Laws Ecclesiastical therefore made in Parliament, we give only a conditional Consent, that is, *a Consent to them so far as they are agreeable to God's Word, and concur with Gospel-Rules.* Nor is it in the liberty of any Man's Conscience or Reason to yield more, nor is there any more intrusted by us with our Representative, the Parliament. If a Man doth scruple the Reasonableness or Equity of a Law concerning Civil Rights, or what's required from it, he may notwithstanding yield Obedience without Sin; and ought so to do, rather than to offend by an appearance of Disobedience, as Christ himself did, *Matth. 17. 26, 27.* But in Matters of Religion, even as Circumstances, Ceremonies, or the least thing wherein
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the Lord hath concerned his Word; if there be a Doubt or Scruple, whether lawful and conformable to the Scriptures, tho it be from Ignorance or Weakness, yet I sin if I submit, *Rom. 14. 1.* compared with 23.

The Consequence of Transgression in this kind, is more than loss of Estates, Liberties, yea or of Life it self. If the Laws of Superiors, concerning Civil Rights, be unjust in themselves, or prove unequal from the Circumstances of this or that Man's Case, who cannot be relieved by any Indulgence, he may submit without Sin, without transgressing any Law of God; nay, it is Vertue, and pleasing to the Lord, our patience in such suffering, *1 Pet. 2. 13.* with verses 18, 19. *1 Cor. 6. 7.* but not so in the Matters of Religion, for we have from Christ to the contrary, that is, not to submit, *Col. 2. 20.* And God blames his People by his Prophets, *for wittingly walking after the Commandments, Hos. 5. 12.* and *for keeping the Statutes of Omri, Micah 6. 16.* the Lord is a jealous God.

S E C T. 4.

If there be not a Power to Judge and Dispense intrusted in some Hands, the People of God are in a worse condition on these Accounts, than in their Civil Interest, and that upon a three-fold account.

1. The Secular Laws and Statutes made in the behalf of the Subjects, are often, upon further Deliberation and Experience of Inconveniencies, altered and repealed, whereby the Subjects have ease: But Acts of Parliament, wherein Ecclesiastical Affairs, and Mens Consciences are concern'd, are seldom or never revised or altered, much less repealed; no not for the space of an hundred Years can we give an Instance hereof. So far are we from repealing Acts made in Ecclesiastical Affairs, as is ordinarily in our Civil Matters,

Matters, that some Acts passed partly for their Severity, or upon some other Account, doubtful whether fit to remain as standing Laws, therefore are limited to a certain Time, after which to expire and cease: the severe Act of 35 *Eliz.* that in the Process of it reached Mens Lives, when first passed, was to remain a Law but to the end of the next Session of Parliament, which in regard of some Doubt it seems made whether in Force or not, is declared by the present Parliament to be in Force, and ought to be put in due execution. And now at this time there is a Minister of the Gospel under the Sentence of that Act; and for transgressing that Law, had lost his Life, had not his Majesty interposed by his Prerogative. A wise Statesman once advised and expressed himself thus: *I ask why the Civil State should be purged and restored, with good and wholsom Laws made in every three or four Tears in Parliament, providing Remedies as fast as time breedeth Mischiefs; and contrariwise, the Ecclesiastical State should still continue upon the Dregs of Time, and receive no Alteration now for these many Tears? We have heard of no offer of Bills in Parliament; is it because there is nothing amiss? Sir. Fr. Bacon.*

2. In that all Proceedings in Ecclesiastical Courts, are ever to the utmost rigour of the Letter of their Canons and Orders; there is no Chancery or Court of Equity among them to appeal unto for Redress; but in some few Cases (as in Causes Testamentary, of Matrimony, Divorces, Tythes, &c. specified, 24 *H. 8.* 12. Matters wherein our Estates are touched), But in Matters of Conformity, and such Cases wherein our Consciences are most concerned, we are left destitute.

3. Again, Men are upon this peculiar disadvantage in these Spiritual Courts, who are impeached for Non-
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conformity to their Canons and Orders, in that their Adversaries, and those that are Parties, for the most part are their Judges; this Sir *Fra. Bacon*, in his Considerations, condemned as a great Injustice: So that it is evident, considering the Nature of Ecclesiastical Constitutions, and how managed with us in this Nation; how necessary it is that some Power be placed somewhere, by which we may not be exposed more than others to such extremity of Rigour; for otherwise, as Consciencious Men are more disposed to Scruples and Doubts in the way of Duty in this kind, so to less Mercy and Indulgence from our Superiors,

C H A P.

C H A P. III.

That our Relief is from the Jurisdiction and Power in his Majesty, to Dispense and Exempt; for in his Hand this Ballance is placed; which is that we shall insist upon in the next place.

S E C T. I.

THIS Prerogative or Power, to Dispense and Exempt from Ecclesiastical Laws, is in the Sovereign; for the Confirmation whereof, not to insist on what was acknowledged by Pope *Eusebius* touching *Lucius* our first Christian King, that he was *Vicarius Dei in Regno suo*, in reference to Matters to be reformed; or is mentioned touching the Laws and Practice of King *Edgar*, and *Edward* the Confessor named the First; *Mea sollicitudinis est quieti eorum consulere, de quorum moribus spectat ad nos examinare*. And of the other (from whom it is said much of our Law is derived) that describing the King's Office, he saith; *Rex ad hoc est constitutus ut Regnum terrenum, Populum Dei & Ecclesiam regat, & ab injuriis defendat, & maleficos ab ea evallat, destruat, & penitus desperdat*, and much of like nature that might be urg'd from Antiquity. But to come nearer Home.

The Testimonies of the Clergy in Convocation, the Representative Church of *England*, who make it so great a Duty to acknowledge it, as they have expressed their Severity thus; *Whosoever shall affirm the King's Majesty hath*

not the same Authority in Causes Ecclesiastical, as the pious Princes of the Jews, and the Christian Emperors obtained, &c. let him be Excommunicated, ipso facto, and not to be absolved but by the Arch-bishop of Canterbury. (Canons of the Convocation, 1603.)

2. I shall join with this Testimony, that of another Synod or Council, namely, that met in the *Star Chamber*, (*2. Jac.*) made up of all the Judges and Persons learned in the Law, summoned by King *James* for Resolution in some Ecclesiastical Causes, whereof this of his Majesty's Prerogative was one; their Resolution you have in these words; *The King may, without the Parliament, make Orders and Constitutions for the Government of the Clergy, and punish those that disobey or refuse to submit.* And this, with other Resolutions in Ecclesiastical Matters, were ordered to be registred and recorded in the several Courts of Justice.

3. And from time to time, the Kings and Queens of England, have assumed and exercised this Power, and there hath been no matter or thing so Sacred, and of such Concernment in these Affairs ordered by Parliament, but the like, and of as great importance by the King alone, with advice of his Council, Instances whereof you have many.

1. In general; The whole System and Body of Ecclesiastical Laws and Canons are published by the Synods of the Clergy from time to time: *These Laws have no Parliament Sanction, or dependance upon Authority thence derived in their Constitution.* Nor yet have these Canons their Authority from the Synod or Clergy met in Convocation; for Canons concluded by the Province of *Canterbury* only, cannot oblige the Clergy of the Province of *York*, having no Representatives or Clerks sitting in that Synod; such was the Synod or Convocation met *Anno 1584, 1597, 1603,*
and

and yet obliged to Subjection, the Arch-Bishop and Clergy of the Province of York as well as those of 1640: where were the Representatives of both Provinces? It's therefore the Regal Authority express'd in the Letters Patents affixed to these Canons, that gives them their chief Power, and are therefore termed *Regia Leges Ecclesie*: And whatsoever Canons or Laws published by Convocation would have been of the same Force and Efficacy to oblige the Subject, if only by the King with the Advice of his Council.

2. In particular; The several Injunctions, Advertisements, Declarations and other Edicts and Requirements from Sovereign Power by his Majesties Predecessors, you have in the Injunction of Edward 6. 1547, and Queen Elizabeth 1559, with Articles of Visitation thereunto adjoynd. They license Ministers to preach, and suspend also from preaching. There were Articles in the Time of Edward 6. for establishing an Agreement in Religion, and the rooting out Discords in Opinion 1552, and by Queen Elizabeth 1562. Also Edw. 6. established a Liturgy, or publick Form of Prayer, to be used throughout the Kingdom 1547, 30 Eliz. after there had been an uniform Order of Divine Service, and to be used only in the English Tongue, established by Parliament as the only Form, and no other, or otherwise: the Queen Anno 1560, by her Sole Authority published a different Form for Funerals, with Liberty to say it in the Latin Tongue, with a *Non obstante* in respect to the former Establishment.

There were also Sermons or Homilies, a part of Divine Service, required to be read by the Minister, which being a matter of Ecclesiastical Cognisance, were appointed by Edward 6, and Queen Elizabeth, and not by Authority in Parliament.

4. King James by his Sole Power, without Authority of Parliament, giveth out Directions for Preachers under Penalty

nalty of Suspension, *ab officio & beneficio*, wherein many great and necessary Gospel-Truths are forbidden to be preached by any under the Degree of a Bishop or Dean. Some Truths may not be preached by way of positive Doctrine, but only by way of Use and Application; no Sermons in the After-noon throughout the Kingdom to be preached from any Text, but what is taken out of the Catechism, Lord's Prayer, Creed, or ten Commandments.

He gives Faculties, and confirms a new Body of Lecturers, or Preachers, throughout *England*, that be neither Parsons, Vicars, nor Curats.

These Instances, though not express'd of what these Powers have dispensed with or indulged; yet are pertinent upon this Account: What Sovereign Power thus put forth in Constitutions, Injunctions, Directions, &c. in Ecclesiastical Matters, may in like proportion be exerted in Exemptions, Dispensations, &c. As with Parliament, and other Councils vested with Authority, the Power to repeal Laws and Statutes is as large as that Power by which they enact and establish Laws: For example, if King *James* (which is our last Instance) might by his Prerogative confirm and establish a new Order of the Clergy, he may by the same Power dispense with and license such Preachers as now seem and are reputed so to be. And it follows also, if his Power will extend to indulge such Preachers, it will not prove short in respect to Hearers, that are as it were new in the way of their Assemblies, and indulge such as are not of the ancient Order of the Parochial Congregation of *England*.

S E C T. 2.

The like Deductions might be drawn from other of those Instances. I shall notwithstanding for further Confirmation add other Instances, and such wherein you have this Power
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put forth in dispensing and exempting from what hath been burdenson to Mens Consciences from Parliamentary or Episcopal Impositions.

1. That of *Edw. 6.* in the fourth Year of his Reign, certain Protestants removing themselves and Families out of Popish Countries into *England* for their Consciences Sake, and being not free to submit to the Form of Worship and Discipline established in this Church: This good King by his Sole Authority granteth them the Liberty of such a Church-Government and Form of Worship (as we shall say more to in its place) as should be most suitable to their own Perswasion: This being utterly against the Provision and Settlement newly made by Parliament; he strengthens his Grant by a *Non obstante* the Statute, and strictly requires all Bishops and Majors, &c. to suffer them quietly to enjoy their Consciences.

2. Another Instance you have of the same good King; *John Hooper* being chosen Bishop of *Gloucester*, and there being certain Rites and Ceremonies established by Act of Parliament to be conformed unto in the Consecration of Bishops, offensive to his Conscience: *Edw. 6.* requires Arch-Bishop *Cranmer* to omit these Ceremonies, discharging him of all manner of Dangers, Penalties and Forfeitures he should run into, and be in any manner of way, by omitting of the same; and these our Letters (saith the King) shall be your sufficient Warrant and Discharge therefore.

3. The Instance you have also in what was done by Queen *Elizabeth* for relief of tender Consciences, namely, her Majesty being informed that in certain Places of this Realm, sundry of Her Subjects called to the Ministry, being induced by sinister Persuasions, are scrupled about the Form of an Oath, which by an Act of the last Parliament was prescribed to be taken according to the Form expressed
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in the Act, under Penalty of being disenabled to bear any Office in State or Church. Her Majesty was graciously pleased to assume by her Power in Ecclesiastical Affairs, to give and declare such a Sense and Construction of the Words of this Oath, expressed in other Words (much different) for their Satisfaction, with a gracious Declaration, That such Persons fit for the Ministry, as could not take the Oath in the Parliament-Form, should accept it in this Sense, and doing so, they shall notwithstanding be accepted by her Majesty as good and obedient Subjects, and acquits them of all manner of Penalties contained in the said Act, against such as should refuse to take the same. By which means many an able Man had Freedom to exercise his Ministry, which otherwise must be laid aside: which Indulgence of hers, although against an Act of Parliament, yet was owned (as done by Lawful Authority) and recognised by the Parliament 5. *Eliz.* and her Exposition assented to and enacted.

4. This renowned Queen, together with King *James* and King *Charles* the First, confirmed the Indulgence and Dispensation granted by *Edw. 6.* to Strangers, yea though it was a *Gravamen* to the Bishop, making an evident Breach upon the Pale of Uniformity; for not only the Parents, but the *Children, and Childrens Children* which were natural Subjects to his Realm, Persons of great Estate, and Purchasers of Lands, and interested in the Soil. The Number also of these Congregations increasing, and situated in the eminent and chief Towns and Cities in the Kingdom, there to live and profess as separated and divided Bodies in Discipline and Worship from the Church of *England*, was not intended by the first Grant: so Bishop *Land* complains (there being only that one in *London* when the first Grant was made) such things were frequently suggested against them, yet these Princes were graciously disposed notwithstanding the

the Act for Uniformity from time to time to confirm the Grant of *Edw. 6.* by several Orders past, some of them formed as having special respect to such Objections which will not be amiss, for the Reader's confirmation, here to insert some of them at least.

The Form in which *Queen Elizabeth* confirmed their Liberties.

*Non Ignoramus variis Ecclesiis varias & diversas jam ab initio Christiane Religionis semper fuisse Ritus & Cere-
monias non contemnimus vestras, neque nos ad nostras
cogimus.*

*King James, Octob. 17. 10 Jac. to the Dutch at
Colchester.*

His Majesty granted their Orders, Liberties, &c. in as large and ample manner, to all Intents and Purposes, as heretofore they have been used, tolerated, and allowed unto them, any Provision or Jurisdiction to the contrary thereto in any wise notwithstanding.

*An Order of King James, under his Signet, Jan. 13.
1616, on their behalf.*

These are therefore to Will and Command all our
E Courts

A Discourse of the King's Supremacy,
Courts of Justice, and other our loving Subjects;
to permit and suffer the said Strangers and their Chil-
dren, &c.

*The Order of the Council for the Walloons of Nor-
wich, Octob. 10. 1621.*

Those of *Norwich*, though born in the King-
dom, shall continue to be of the said Congrega-
tion, and subject to such Discipline as hath been by
all the time of fifty five Years practised by them.

*The Order of King Charles the First, Novemb. 13.
1631.*

We Will and Command our Judges, &c. to per-
mit and suffer the said Strangers, and their Children,
quietly to enjoy all and singular, &c. without any
Troubles, Arrests, or Proceedings, by way of In-
formation, or otherwise.

*An Order of the Council for the Dutch of Norwich,
Jan. 7. 1630.*

That all those that now, or hereafter shall be
Members of the Dutch Congregation, although
born within this Kingdom, shall continue to be of
the

the said Church, so long as his Majesty shall be pleased, &c.

These and divers the like Instances might be produced, which sufficiently evince it as granted on all sides, and constantly supposed to be according to the Constitution of this Realm, that our Kings and Princes have Power, in and from themselves, as an inherent and inseparable Prerogative, not only to injoin and give Laws to their Subjects in Ecclesiastical Matters, (such as are left to the ordering of any Civil Power) as also to dispense and exempt from Laws of that kind, though established by them in conjunction with the Authority of Parliament.

Nor do we find that Parliaments at any time have taken into Consideration, what was ordered or done by those Kings and Princes in Ecclesiastical Affairs, being their known Prerogative; nor in those of King *James*, who assumed the most in such managements; nor by any Petitions or Addresses to any of those Princes, which is usual in the Concerns of Civil Rights, for limiting or enlarging the Exercise of their Power in these Ecclesiastical Matters, but rather recognizing and confirming what hath been ordered by them, as in *5 Eliz.* and *Car. 2.* in the Act of Uniformity; and other Instances many may be produced.

C H A P. IV.

Of the Objections made against this Power, and the executing thereof, with Answer thereunto.

S E C T. I.

THere are Reasonings possibly tending another way in stating this Case: The Objections obvious I shall now mention, having divers material Considerations pertinent to a more full and clear stating this Case, which might have been produced in the Body of this Discourse, but are reserved rather to this place, partly, because we find this vulgar way of Dialogue, lets in Knowledge with less difficulty; and what is required by way of a Question, engageth him that propoeth, with greater attention to observe what is said in the Answer.

Q U E S T. I.

If such a Prerogative be in the King, what need Ecclesiastical Laws be transacted and established by Parliament?

Ans. 1. That hinders not but that his Majesty's Power is sufficient of it self to do many things relating to such Laws without them; take it in his Majesty's own words, Declarat. of 26 Decemb. 1662. *To concur with us in making some*

some such Act as may enable us to exercise with a more universal Satisfaction, that Power of Dispensing which we conceive to be inherent in Us. As also it is by the afore-named learned Judge Hubbard expressed, That these Statutes, and the like, were made to put things in ordinary Form, and to ease the Sovereign of Labour, but not to derogate from his Power.

2. Powers sufficient in themselves may join, and in such conjunction remain intire, as Powers Cumulative, and not Privative; as it is evident from what is said in the Statute of 31 Hen. 8. cap. 10. *The King's most excellent Majesty, though it appertained to his Prerogative Royal, to give Honour as it shall seem to his Wisdom; he is nevertheless pleased and contented for an Order to be had, &c. by this High Court of Parliament, that it shall be enacted by the Authority of the same, &c.*

3. The King is a kind of Corporation in himself, distinct from that Capacity wherein he stands in conjunction with his Subjects as their Head: And in that respect, being in an higher Region, above, and in a greater distance from those Interests, upon the account whereof his Subjects are many times much divided, and publick Edicts are formed according to the Prevalency of a greater Party, to the prejudice of others that are his Loyal Subjects also; by his Wisdom and Prudence there is a Ballance, by which the Tranquillity of a Nation is happily preserved, and one Party is not overborn by the other, having this Power to mitigate and dispense in the Matters under our consideration, as in his Wisdom, with Advice of Council, shall seem equal.

SECT. 2. QUEST. II.

*But hath not the King's Prerogative Limits in our Laws?
And are there not some Things which he cannot dispense
with, no not with a Non Obstante?*

Answ. I grant it, and in several Cases.

1. He may, by special Words in the Statute, bind up himself from making any use of his Prerogative.
2. In what is *Malum in se*, in respect of Impiety or Unrighteousness.
3. When such Dispensations are destructive to the great Ends of a Common-Wealth, Common Justice, the Proprieties of Men, &c.

1. To the first; His Majesty, or any of his Predecessors, hath not at any time, in any Statute or Law that concerns these Ecclesiastical Matters, by any such special Words bound up himself, but rather the contrary, as in those two Acts wherein more especially our Affair lieth: That for Uniformity, where the dispensing with that Statute granted to Strangers, by sole Prerogative-Authority, is justified. And the Act of 22 Car. 2. by the *Proviso* there inserted, the Parliament seems to induce his Majesty's Assent in the recognizing of his Prerogative, so expressly in that Act, as if they spoke thus: Though this Act be very Severe, yet if it be found prejudicial, or not to attain the End for which we judg such Severity to be requisite; it is an Ecclesiastical Affair, and your Majesty may, when you please, dispense and exempt Persons from it.

2. There

2. There is nothing transacted in these Ecclesiastical Affairs by the Civil Magistrate, and as depending on his Authority, but such Matters as in the sense of our Law are things materially indifferent, and therefore not *Malum in se*, they do not bind the Conscience of the Subject, in the nature of them, considered in themselves, (Q. Eliz. Advertisements 1569, Preface) the keeping or omitting of a Ceremony in it self, is but a small thing, yet the wilful and contemptuous transgression and breaking a common Order, &c. So that these Precepts concerning Ecclesiastical Matters, oblige not in their own Nature, as what is either *Bonum* or *Malum in se*, but as prohibited or commanded.

3. Civil Rights and Claims, and in Temporal Things only, are of the immediate and intrinseck Concern and Interest of all Republicks; *Dominium non fundatur in Gratia*; if the just claim of a Prince may not be interrupted, upon the account he is of this or that Religion or Perswasion; nor may a Subject be justly Banished, Imprisoned, Confiscated or Ruined, upon the meer account of Religion, or because his Conscience is not cast into the same Mould with the Prince or present Establishment.

SECT. 3. QUEST. III.

Religion, and the Worship and Service of God, being the great Concernments of a Nation; Is it not then to dispence with the Penalties in Ecclesiastical Laws, too great a Trust to be reposed in any one Hand?

Ans. 1. In what sense Religion is the Concern of a Civil Republick.

2. The Nature of this Trust.

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1. The Moment or Weight of a Matter in our deliberation, hath its proportion, either as under an absolute or respective Consideration; *Wisdom is better than Riches* in it self, but not in relation to the support of present Life; the Knowledge of God, and Divine Things, is better than to know the Virtue of Drugs and Plants, but not so in respect to the study of Physick: so Religion, and the Worship of God, is the chiefest and better part in it self considered; but in its respective Consideration, as to the faculty of a particular Person, to a Community of Men for the advance of Civil Affairs. There are other Qualifications and Inducements of greater consequence, and more directly and immediatly tending to the being, or well-being thereof.

That there be no Mistake in this great Concernment, I further distinguish; There cometh under the Notion of Religion, the Holiness and Righteousness that is of the Moral Law, Principles whereof are in all Mens Natures, and attend in their Actings by a natural Conscience.

2. Gospel-Duties directed and ordered by a Supernatural Light, no Foot-steps or Principles hereof are found in us. For the former; Religion in that sence, as the Knowledge of God, Conscience of an Oath, Justice and Righteousness in our Dealings, &c. are such Things wherein the Well-being of Common-Wealths is much concerned. But Religion, as it stands in the exerting Supernatural Principles, and in Duties termed the *Commandments of Christ*, (as the other the Commandments of God, *John 15.*) as Faith, Repentance, Sacraments, Discipline, and the like Gospel-Ordinances: In the Duties under these Heads considered, and as distinct from Moral Duties, there is little or nothing directly and immediately contributed by them to Mens Civil Interests, further than where these Supernatural

tural Vertues are planted in Mens Minds, the Moral Duties of Piety and Honesty do more plentifully abound, and are in exercise. As those Morals do more immediatly concern the Republick, so the Laws thereof are principally drawn forth out of them ; especially Second-Table Duties, forming and moulding them into municipal Laws, under Penalties and Incouragements, greater or less, as in the Wisdom of a State may conduce most to the Welfare thereof. For these Gospel-Myseries it's otherwise ; for as they contribute little to us in our Civil Government, otherwise than as before mentioned ; so is there little contributed by the Wisdom or Authority of any State, advantageous to the Gospel, but Protection, or being a Defence upon this Glory. Learned Bishop *Bilson* states it well ; *Princes* (saith he) *command, that which Christ the Sovereign Lord and Head of the Church commandeth, which is all the Power we give to Princes.* (Of Supremacy, pag. 227.) And in the Page before, thus ; *By Governors in Ecclesiastical Matters, we do not mean Moderators, Prescribers, and Magistrates bearing the Sword, to permit and defend that which Christ himself first ordained and appointed.*

But to return ;

If *Adam* had stood, all Common-Wealths would have been prosperous and flourishing ; and yet, no Christ, no Faith, nor Repentance, nor any Gospel-Worship known or practised : And since the Fall, you have had well-governed Common-Wealths of *Turks* and *Heathens*, that never received Christ, or Gospel-Worship. It is with States, as it is with particular Persons in converse ; another Man's Estate, or Trade, or Credit, or any Civil Concern with whom I have to do, is not prejudiced or bettered by my omission or practice of what is a meer Gospel-Duty. If a Man I deal with, be unjust, lie, steal, &c. my worldly

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Interest

Interest is prejudiced hereby; but whether he repent for this, exercise Faith on Christ for Forgiveness, and humble himself, I am neither a gainer nor loser hereby, in the sense we speak of.

Now it is Gospel-Worship we profess in this Nation, Gospel-Religion. If the Duties themselves performed are of no greater consequence in respect to Persons with whom we converse, or the Civil State where we live, the Modes, Forms, and Ceremonies of such Worship, cannot be of such moment or trust in the manage of them: And let me add, much less can there be any such special advantage to our State-Concernments, in this or that particular external Form of Worship or Government, that it should be retained by us with so much Zeal and Contention; which evidently appears in this, how prosperous and flourishing hath this Nation been in their Civil Concerns under Episcopacy, set Liturgies, Ceremonies, &c. and as great prosperity in other Christian Republicks, where these have been altogether disallowed.

Nor is this any dishonour to the Gospel, more than to the Kingdom of Christ, when it was said *not to be of this World*, or to his Person, or Offices, that they contribute no more to the settling of Civil Rights and Interests, *Luke 12. 13.* or to Gospel-Weapons, which being Spiritual, and not Carnal, have no Edg to cut off Mens Liberties, Estates, or Lives.

2. The Nature of this Trust.

The Laws and Institutes by which these Ecclesiastical Matters are to be managed, are appointed and established for Substance, by the Wisdom and Authority of that one Law-giver Christ Jesus: The Application of these Laws, in respect of Circumstances, for the well and comfortable enjoying Gospel-Ordinances, is all that any Humane Wisdom

dom hath to do in them, the Trust whereof may be placed in the Hand of a wise and prudent Prince.

Again. There is liberty of an after-Judgment to be made by him; that is, to practise in what-ever is of the Concerns of Religion, commanded by Men. Thence such Laws require not such simple and peremptory Obedience, if conformable to those Rules required in the Word. Obedience thereunto is with respect to God, as well as Man; if otherwise, that choice ought to be left to the Subject, which the Apostle claimed, *Acts* 5. 29. Although Matters of Religion, and the Concerns of it, be great Things considered in themselves, and accordingly is the Trust, yet what of it falleth under the Hand of a Civil Power, considered in it self, is not so.

Because the greatness of this Trust sticks generally in Mens Minds, especially when in the disposal thereof it depends upon the Will of one Man. To remove this or the like Stumbling-block, we will suppose failings in the management of the Trust, as great as rationally can be imagined.

1. Suppose his Majesty should refuse, either by Himself or Parliament, to enjoin any thing of Ceremony, or Circumstance about these Ceremonies and Externals, the Worship and Service of God.

Or, 2. suppose he should dispense with all Injunctions, and leave the People of God to their Liberty in the observance of them: the Premises last mentioned being considered, there can be no great prejudice to the Commonwealth, or Civil Affairs thereby. Distinctly we shall weigh each of these.

1. For the former; *If the keeping or omitting of a Ceremony, in it self considered, is but a small thing, as we mentioned before, and of such a nature, as although at first*

'twere of Godly Intent, and purposely devised, yet at length turned to Vanity and Superstition, and burdened Mens Consciences without cause, &c. as we our selves acknowledg, (*See Preface to Common-Prayer Book*). And of the same condition are most of those Impositions which have proved burthenfom to the Nation a long time; and if so, the not imposing of these things cannot be prejudicial to Church or State. Not to the Church; if these Directions for Gospel-Worship, in the external Circumstances of it, were not reduced into Canons and Injunctions, but left where they are to be taken up in practice according to the Light of the Age; as are Gospel-Duties of great Consequence. Those Scriptures by which States profess themselves to be guided in the forming of these Ecclesiastical Laws, are intrusted also in the Hands of his Gospel-Ministers, for their conduct and direction in ordering Gospel-Affairs; who have Gifts and Assistances from Christ, in such a measure and degree, as cannot be expected in the ablest Statesman, as such. And the Ecclesiastical Laws are never so well ordered by Civil Powers, as when they consult with, and take advice and direction from the Ministers of the Gospel about them.

'To advise new Rites and Ceremonies (saith Bishop Bilson) is not the Prince's Vocation, but to receive and allow such as the Scriptures commend, and as the Bishops and Pastors of the Place shall advise. (Of Suprem. p. 226.)

2. If there were no such severe Injunctions about the Forms and Modes of Gospel-Worship, (I speak not of such Duties of Religion in which Mens Natures are principled.) 1. The Nation could not hereby suffer in respect of its Civil Concerns, but the Wealth and Trade, &c. much more prosperous. The Things being small in themselves, and become great only upon the account of their being

being enjoined, and the greatness of Penalties annexed, become of great concernment to the State, that is, to the great prejudice thereof, as hath been apparent in many Years sad experience. What is it of moment to Commonwealths for the quickning of Trade, keeping up of Rents, &c. or any particular Man's Civil Concern, that Men kneel or not at the Sacrament, crossing or not, crossing in Baptism? &c.

2. For the other; A dispensing with all Penalties annexed to Ecclesiastical Laws; where these Penalties are removed, yet these Laws remain as Counsels and Advertisements, and being consulted by the Learned Clergy in their Synod, and commended as useful in the Administration of Worship, this is as much as ever was done by the Apostles, when Churches were in their greatest purity, who endeavoured not so much to establish an External Uniformity, as to preserve Christian Liberty.

If it be said, They had then no Christian Magistrates. 1. We say, The Kingdom of Christ must come into a Nation, before it be Christian; and if it be so defective in its first address, for want of such a Magistrate, and of the Means we put so great an Esteem upon, for reducing a People, how will the People ever become Christians? And on the other side; if the Gospel hath a sufficiency in it self, (without borrowing) to subdue a Pagan Nation to Christianity, much easier it is, being such, to preserve them orderly and regular Christians.

Paul having instructed and counselled, left his People free, and to the persuasion in their own hearts, Rom. 14. 5. One Man esteemeth one day above another, another Man esteemeth every day alike: let every Man be fully persuaded in his own mind. That was but a Counsel or Advertisement. In the Act for Conformity, in 1. Eliz. given to the Archbishop,

Bishop, Bishops, and other Ordinaries, that they would endeavour to perform their Duties in the Execution of that Act; it was indeed very solemn, that is, from the *Queen's Majesty, the Lords Temporal, and all the Commons in the present Parliament, and in God's Name, and as they will answer before God for such Evils and Plagues, as may be punishments for the neglect thereof.* There hath been no want of Obedience hereunto by the Bishops, being fully perswaded in their Hearts hereof as their Duty; of which, if they had not been so perswaded, the severest Penalties would or ought to have been in vain.

King *James* orders, throughout the Kingdom, that the Afternoon's Exercise, each Lord's Day, be spent in examining Children in their Catechism, instead of Preaching. This is only commended as the most convenient and laudable way of teaching in the Church of *England*, and that such Preachers be most encouraged and approved of: And how readily was this immediately practised throughout the Nation? and is continued in many places to this day.

In the Establishment of Uniformity, 2 *Edw.* 6. a Liberty was left in respect of Ceremonies, to practise or omit them, according as Men were perswaded in their Hearts.

By the Synod held 1640, some Rites there mentioned are heartily commended by them, to the serious consideration of all good People, as an Ancient and Laudable Custom of the Primitive Church in the purest Times. And notwithstanding all this extolling those Rites, (which indeed is as much as can be said for any of our Ceremonies) the Canon concludes thus; *In the practice or omission of this Rite, we desire that the Rule of Charity prescribed by the Apostles may be observed; which is, That they who use their Liberty,*

Liberty, despise not them which use it not; and they who use it not, condemn not those that use it. (Can. 7. 1640.) And this their counsel and commending hath not been in vain, but received and submitted unto throughout the Nation, by those who were so perswaded of these Rites, as they have commended them: And so would it have been in respect of other the Rites of our Church. And the free submission in practise of a Rite, though but from a fewer number of grave and pious Persons, would have advanced the Esteem of such Rites and Ceremonies in the Opinion of others, much more than the forced submission of greater Numbers.

2. As a farther Answer, let us consider the Nature of the Crime, with respect to the Penalties. The Crime, as expressed in our Laws, is a wilful and obstinate, or contemptuous omission, as 1 *Eliz. cap. 2.* in the Act of *Uniformity*; where these words, *wilful* and *obstinate*, I would think are not descriptive, and to be understood *reduplicative* as an Aggravation; and as if all Omissions must of necessity proceed from Wilfulness and Obstinacy, but distinctive, and to be understood *specificative*, some Omissions being from Wilfulness and Contempt; but there may be Omissions that are not so, and being not so, fall not under the Penalty, as killing a Man, and wilful Murder, &c.

That the words of that Act, 1 *Eliz.* and other Ecclesiastical Edicts, would so be understood, there are these Reasons.

1. We would not suppose this Law to be grounded upon so hurtful a Principle as this, That where a difference of Perswasion, in relation to a difficult Case of Conscience, that one Party is always wilful and obstinate, there is not a greater

greater uncharitableness, and more opposite to that Christian Love and Peace we ought to endeavour after.

2. It was not so judged by our Governors in that Age, when this Act of Uniformity (1 *Eliz.*) was established, but a more charitable Interpretation of Mens scrupling Obedience; as is evident from the Relief given to such by Queen *Elizabeth*, who, with the Advice of her Council, put forth a Book of Articles to be enquired of at the Visitation, and Presentations to be made accordingly; and of 56 in number, there was not among them one about such Rites and Ceremonies then established, that were offensive of purpose, as some judg, to abate the Rigour of that Act, and other Injunctions, which shewed they were not all Wilful and Obstinate that could not Conform. Some Merciful Bishops, after this Example, framed their Articles of Enquiry with more moderation; and divers Ministers not fully conforming, enjoyed their Ministry under them: The more severe Clergy, observing the Liberty enjoyed more in some Diocesses than in others, made this Provision in the Synod, 1640, *Can. 9.* That for the better settling of Uniformity, there should be but one Book of Visitation Articles, that the more moderate and indulgent Bishops might not have the forming their own Articles. The moderate Bishops themselves, did not judg that all Non-conformity was from Wilfulness; nor would those many Dispensations and Exemptions before-mentioned, be granted by our Governors, if they had judg'd those who came not up to the Establishment, disobeyed out of Obstinacy and Contempt, nor suffer some of them, as Queen *Elizabeth* did, to preach before her in her Chappel.

3. That

3. That all Ecclesiastical Transgressions, even in Matters that are little in themselves, are from Wilfulness and Obstinacy, (what this Act supposeth, if so interpreted) is a Maxim in Discipline, neither Christ nor Christian Churches were ever acquainted with. Christ in his Ecclesiastical Proceedings against Sinners, distinguisheth between the Sin it self considered, and as a Sin wilfully and obstinately committed, and hath appointed Means for the discovery hereof; and if the Sin be of Infirmity, a different Procedure, and a more tender Dealing is appointed, *Gal. 6. 1.* and not to apply Censures, and cutting off, but upon the account of Wilfulness and Obstinacy; only we are willing to believe such is (I am sure ought to be) the Method of our Process in these Matters, and what appertains to the Worship and Service of God, professing so frequently as we have done, That we take the Word for our Guide in the establishing these Ecclesiastical Laws.

4. Our Lawgivers judg the Purest Churches, those of the Primitive Times, were Voluntary Congregations of Believers, (as we said before out of Judg *Hobart*) submitting themselves to Pastors as God should move them, no Patrons then imposing upon them. Now there is no voluntary Act to which we are moved, but such motion is upon the account of something that is real or appearing Good. There is no rational Man can voluntarily join and become a Member of a Society or Congregation in such condition within his Participation, which is probable to be of greater Evil than of Good. It will be so with us, if this Act be interpreted *Reduplicative*, that is, whosoever omits a Ceremony, doth it obstinately, and shall suffer as such an one. I join voluntarily, in hopes to be edified in

Knowledge, Zeal, Tenderneſs of Conſcience; and where ſuch Attainments are, there is a greater aptneſs to ſcruple Obedience to ſome one Thing or other injoined; which if we do, we are ruined or undone, firſt or laſt, ſo ſevere are the Penalties in the Proceſs of them, whether Miniſter or private Chriſtian: it will not be with a Man, (as the Apoſtle, *if he will depart, let him depart*) to loſe the Privileges upon the account whereof we joyned, which is the Liberty enjoyed in all Corporations and Societies, but muſt abide upon the place, and look on, while all be deſtroyed: What rational Man upon Election, and voluntarily will become one in ſuch a Congregation? And this is the real and juſtifiable Ground of Separation, upon the account whereof many thouſands of ſober and peaceable Perſons have departed, not only from our Communion, but their Native Country, for the advantage of that purer and primitive Order of a Voluntary and free Congregation.

5. In the Statute of 1 *Eliz.* it's not ſimply the reſuſing, or not uſing the Forms there injoined, but the doing it wilfully or obſtinately; Or, that the keeping or omitting of a Ceremony, in it ſelf conſidered, is but a ſmall Thing, as we mentioned before. I grant, Matters very ſmall, being made the Subject of a Penal Law, or injoined for State-Ends, may thereby become great; the ſmaller the Matter is in it ſelf in ſuch a Caſe, the greater is the wilfulneſs in tranſgreſſing, and ſo may juſtly demerit a greater Punishment: But yet a Matter being ſmall in it ſelf, and as it ſtands the Subject of a Political or Civil Law; the ſame when it becomes the Matter of an Eccleſiaſtical Law, ought not to be formed with reſpect to State-Ends, or *in ordine ad Temporalia*, though it be a ſmall Matter in it ſelf, and as a thing meerly Natural or Moral, may not

notwithstanding be very great upon that account; and greater to the Person who scruples the Lawfulness thereof, than the greater Penalty that can be incurred by refusal; for there is no Circumstance or Ceremony, that hath a constant Station and Place in the Worship of God for any Spiritual End designed (as ours are) but in their relation, and respect thereunto, are great, whatever they are in themselves. These Laws therefore being Ecclesiastical, wherein God and Mens Consciences are so immediately interested, the not conforming to them cannot be supposed a true measure to judge of Mens Wilfulness or Obstinacy; it would be a great reflection upon the Prudence (or the Charity at least) of our Laws and Injunctions so to interpret them.

If the greatness of the Penalty be laid, not upon the Crime materially considered, but in respect of that evil Frame wherein we transgress, God only is the searcher of Hearts; and although by Overtures and Circumstances, something may be discovered this way, yet it is with great difficulty and uncertainty, especially when we transgress by Omission: the reason is, in positive Acts done by a Man, all the Faculties of the Soul are engaged, and exert themselves together at the same time; and in the Circumstances of such acting, there remains those Overtures of such a frame of Mind, as a more permanent and exact Counterpart thereof. Omissions are many times when the Mind stands but half-bent, the Understanding not clear, the Will not determined; in an Omission there is nothing of the Man left upon Record distinctly to be read and considered of by us, so that we can scarcely so much as guess from what Principles within an Omission doth proceed. And the uncertainty is far the greater, when it is notoriously known, such Omissions may be from a good Inten-

tion, as well as a bad. To be able so far to dive into Mens Hearts, as distinctly to discover Intentions, is a Work more suitable to the Word of God, *Heb. 4. 12.* than the Laws of Men; we would not therefore interpret these Laws in such a sense, as to render all Omissions to be upon Principles of Wilfulness and Obstinacy: it would be more charitable, where so little Evidence can be produced, rather to judge the contrary of our Brethren and Fellow-Subjects.

6. This Act of Uniformity (not we hope in the Intention of it, but in such an Interpretation) hath been the Original of all our Sufferings. If therefore that be not the true meaning of the Act intimated in his Majesty's gracious Declaration, namely, That upon what Principles soever Men submit not unto it, though from tenderness of Conscience in the greatest Evidence, yet thereupon to be punished with the loss of all their Spiritual Promotions: but if it appear from Obstinacy and Sedition, that such only should suffer so deeply, by the addition of further Pains and Penalties as are in that Act inserted, what is more just and equal? If this yet be not the meaning of the Act, as it seems by constant Proceedings against the Transgressors of it; for what Man was ever relieved in any Court Ecclesiastical or Civil, upon such a Plea, he omitted not such Observations wilfully, but of Conscience? I say therefore, If that be not the sense of the Act, yet upon these Considerations but now mentioned, there is Evidence sufficient, that this gracious Dispensation of his Majesty, of such redundant Penalties (and of such a Nature) are all the Penalties we are exempted from in that Declaration, is to be judged of as most Necessary, Prudent, Just, and Charitable.

His Majesty being therefore perswaded, that many Multitudes (it's his Majesty's Expression, *Declar.* of Dec. 26. 1662.) suffered, being insinared in their Consciences, and not from Willfulness; and his Charitable Opinion seems to be grounded upon an Observation of his own: *It is evident* (saith his Majesty) *by the said Experience of twelve Years, that a very little Fruit of all those forcible Courses.* The Will is a more unsteady Principle, and easily wrought to a Change upon Representation of Good or Evil. But Conscience is more fixed and incorrigible, it not being in our own Power to alter the Dictates thereof: as to be changed from our Natural State, was not in our Power; no more is the change of our Perswasions in Matters of Duty, Conscience being engaged, *Phil.* 3. 15. but God alone doth it. His Majesty therefore wisely judged it would be less Injustice, and better for the Common-Wealth, that all such Penalties be removed, and suspended, when the execution of them have been so constantly misapplied, and so much to the prejudice and disquiet of his Good Subjects. It is Righteousness, and not Ceremonies, that Establish a Nation.

S E C T.

do and to. **SECT. 3. QUEST. IV.**

If the Penalties of all Ecclesiastical Laws be removed, these Laws themselves become impracticable; and when Men are left to worship in what Forms they please, will not that Ancient Establishment, of one Uniform Worship and Government to be the same throughout this Kingdom, be utterly destroyed?

Ans. 1. For that which we term Uniformity in the Worship and Service of God, we find no other in the Apostolical Churches, but what arose from inward Principles, freely and naturally, these Principles being the same: as where there is the same Seed, there will be the same Blade, Stalk, Leaf, Flower. And there is an Uniformity from External Impressions, as in a Mould, these are constrained, and forced. The former, is from the Lord, a Work of his Power, and there is beauty in it, *Psal.* 110. The latter is from Princes and States, wrought by the Power of their Laws and Penalties, and may have much hypocrisy, but little amiableness. The basest Metal, as well as pure Gold, will conform to the Mould into which it is cast. Such a conformity is no safe Character to distinguish who is fit, and who not, for Ministry or Membership; but the other is of great use in the Churches of Christ.

As the Wicked, who are a Seed of Evil-doers, are uniform in their Practice, being acted from the same inward Principles, *Eph.* 4. 17. So the People of God being baptized into one Spirit, *1 Cor.* 12. They live in this Spirit, and walk in this Spirit, *Gal.* 5. 25. And as in other Duties of Piety

Piety and Justice: So in Church-Administrations, where Men are of the same Mind and the same Principle, they will all speak the same things, though not the same Words, in Preaching, in Praying, and Officiating in the Service and Worship of God, though there be no external Pre-scrip'ts, or force of Humane Laws, to bring Men to an exact conscientious Uniformity in the Externals of Worship and Ceremonies, where there are various Apprehensions; this is not to be effected by the molesting of Men in their Liberties and Estates, judging or censuring, or indeed by any humane Power; God himself that can do it, and establish Men in such an Uniformity, yet for Ends suitable to his Wisdom, leaves them various in their actions in this kind; one Man observing a Day, or the like Ceremonies, another observes it not; but mostly standing upon liberty in those that practice, doing, or leaving undone, as *the Lord*, that is, out of Conscience; and this is the Apostolical Doctrine in Rom. 14. §.

That which we term Uniformity, an exact Identity in Words, Gestures, and Vestments, Nature seems to teach us an example of a sinless neglect of; though there be a conformity in every Vine, and every Fig-tree, and the like works of Nature, one to another in their kind, yet for the Modes, and outward Form and Shape, you have not seen of these that are conformable, and grow alike.

2. Nor can we say, but though all the Penalties (properly such) annexed to Ecclesiastical Laws, are removed; yet there will remain provision sufficient left in our Establishment, both to keep and preserve Men in Conformity, that are so, and to reduce such as are not so: for his Majesty hath been graciously pleased, as on the one hand, to assure the Orthodox-conformable-Clergy, that they shall receive and enjoy the Revenues belonging to the Church of England, (the

(the richest, most plentiful, and ample of any Protestant Church in the World) and that no Person, though dispensed with in other things, shall be exempt from paying *Tithes*, and other Duties whatsoever. And on the other hand, That no Person shall be Capable of holding any Benefice, Living, or Ecclesiastical Dignity or Preferment of any kind in the Kingdom of England, who is not exactly conformable. Such Encouragements are also *Primitive Penalties*, and have brought and kept more to Conformity, than all the Penalties removed by his Majesty's Declaration.

When was it known that a Bishop, or Dean, or double-beneficed Parson, left his Promotion and became Nonconformist; and others that have been bred up to Literature, at great Charge, having Gifts and Parts, would be so peevish as to refuse, being hereupon forced to divert from the way of a more free Education, to some mean Employment to get a lively-hood, or live upon the Charity of others? (It is the Condition of hundreds this Day in England); And can we imagine any Men having such Encouragements in their Eye, and the more desirable from sense of their present Indigency, keep off, but from Integrity of Heart?

His Majesty, as a Common Father, hath the same Affections for all his Good Subjects, and never more prudence and tenderness manifested by any Prince, than he hath done in this his Gracious Declaration. One Party, such as Conform, enjoy their Consciences with Special Advantages in Temporal Things; the other, they also enjoy their Consciences, with Freedom from those Severe Proceedings, and these are satisfied also. And now let not any Man's Eye be Evil, because his Majesty hath been so good to their Brethren.

Let me say again, That his Majesty hath in Tender-
ness and Prudence, done a great Work, and that which
hath lain undone, to the disturbance of his good Subjects,
more or less, ever since the Reformation; That is, in sa-
tisfying, or laying a sufficient ground of Satisfaction to the
two great Parties which divided this Kingdom, in the
Matters appertaining to Religion; That is, in the Forms
and Ceremonies of Worship, (In the Profession of Faith,
and Articles of Religion, according to the establish-
ment 13. *Eliz.* there is one Union in the acknowledg-
ment of both Parties) and this without the least detri-
ment or just prejudice of either Party; Those that Con-
form, enjoy their Consciences, imploy their Talents, and
reap the Encouragements of the established Government,
without any loss or detriment to those that conform not;
And this party, enjoy their Consciences and Freedom from
suffering, and liberty to follow their Callings, without
the least damage to the Conformist.

SECT. 5. QUEST. V.

*Is there any necessity his Majesty should exert a sole Power
in Affairs of Religion, when the Peace and Unity of
the Nation herein was undertaken by his Parliament,
and many Things endeavoured that way by them, and
Purposes (its likely) of a further progress therein?*

Ans. For Answer, it will be necessary to insert here
briefly a Narrative of some Passages of his Majesty and the
Parliament in these Proceedings.

His Majesty observing how Affairs stood here in this
Kingdom, and the Distractions that were on Mens Minds
about Religion, and Forms of Worship; and considering

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there are but two ways supposed ordinarily to reduce a People again to Peace and Unity in Religion; (1.) Either by severity to discourage and extirpate; Or, (2.) by lenity and indulgence to bear with Dissenters. His Majesty considering those Forms and Ways of Worship, to which Conformity is now required, have not only been much scrupled, and contended against by Learned and Sober Men, ever since the first Reformation; but of late utterly disfavoured by a Representative of the Nation, and a Synod of Learned Men. And different practices in the Service and Worship of God, by the present Powers that then were encouraged; and such which were not other but what was received and observed in the best Reformed Churches Abroad, and by the Dutch and French Churches here at Home. Upon these and the like Considerations, his Majesty chose, upon great Deliberation, the way of Indulgence; it being also most suitable to his Conscience, and sweetness of his Nature.

This his Resolution he professed to all the World, and engaged himself by promise to his People, he would endeavour the effecting thereof; which is more than evident in the many Declarations he made hereof, and repeated again upon all Occasions. He was pleased, in a Declaration from *Breda*, to answer a Liberty to tender Consciences; and that no Man shall be disquieted, or called in question, for Differences of Opinion in Matters of Religion, which do not disturb the Peace of the Kingdom. And in his Speech, July 17. 1660. professeth that he owes his Being here to God's Blessing, upon the Intentions and Resolutions he had and expressed in that Declaration. This Declaration his Majesty afterwards (May 8. 1661.) terms a *Promise solemnly made*: This Declaration or Promise is so much upon his Royal Heart, that he tells both Houses, (July 8. 1661.) that so oft as he comes to them, he mentions his Declaration from *Breda*, that Him-
self

self as well as they might mind it. In his Majesty's Declaration of Decemb. 26. 1662. he tells us, *That he remembers the very words of the Promises from Breda, that concern Liberty of Consciences, and the Confirmations he hath made of them since, upon several occasions; and as all these Things are fresh in his Memory, so he is still firm in the Resolution of performing them to the full.* Feb. 10. 1661. in a Speech to both Houses; *One Thing more I hold my self obliged to recommend unto you at this present, which is, That you would seriously think on some Course, to beget a better Union and Composure in the Minds of my Protestant Subjects in Matters of Religion; whereby they may be induced to submit quietly to the Government, and most faithfully give their Assistance to the support of it.*

His Majesty did not only express his Purposes for the ease of Tender Consciences, but from time to time endeavoured it. And first of all, by a Declaration (Octob. 25. 1660.) to all his Loving Subjects of *England and Wales* concerning Ecclesiastical Affairs, mentioning that from *Breda*, dispenseth with the use of divers Ceremonies formerly enjoined, that were offensive. *March 25.* following, he gave Commission to certain Learned Divines to meet at the *Savoy*, and take the Service-Book under consideration to the same purpose. *May 11. 1661.* frees from their Imprisonment such as suffered for Conscience.

The King and his Parliament happily joined in the same pious End, Peace and Union, yet differenced in their apprehensions of the Means to procure it; which was our great unhappiness. The Parliament judged the reducing and rooting out Dissenters, by severe Penalties, to be the means of Unity in the Church, as they tell his Majesty in Answer to his Declaration; *Pressing the asserting of the Laws and Religion, established according to the Act of Uniformity,*

mony, as the more probable means to produce a settled Peace and Obedience throughout the Kingdom: Supposing (and possibly some of them perswaded thereunto, from those that never would distinguish betwixt Conformity and Sedition) the dissent of Nonconformists from the present Establishment, to be rather from a Spirit of Faction and Disloyalty, than Tenderness of Conscience, proceeded accordingly. The Act of Uniformity was renewed, and the Service-Book enjoined, with no alteration of what was formerly offensive in it, but some Expressions of greater difficulty to be digested by those that were Tender, and nothing done yet in what his Majesty had promised in way of relief to Tender Consciences.

Hereupon not only multitudes of faithful Preachers of the Gospel in the several Shires of this Kingdom, were put from their Employment, but also the Minds of Men much disturbed, and filled with hard Thoughts and Jealousies upon this Account. Inasmuch that his Majesty was enforced to publish that Declaration of Decemb. 26. in which he expresses the Surmises of the People, occasioned by this Severity; thus, *That having made use of such solemn Promises from Breda, and in several Declarations since, of Ease and Liberty to Tender Consciences; instead of performing any part of them, we have added straiter Fetters than ever, and new Rocks of Scandal to the Scrupulous by the Act of Uniformity.* To this Surmise and Jealousy, his Majesty condescends to make Reply thus; *As concerning the Nonconformance of our Promise, We remember well the very words of those from Breda, (repeating the words) and the Confirmations we have made of them since, upon several Occasions in Parliament; and as all these Things are still fresh in our Memory, so are we still firm in the Resolution of performing them to the full. But it must not be wondered at, since that Parliament to which those Pro-*
mises

misses were made in Relation to an Act, never thought fit to offer us any to that purpose.

The House of Commons took his Declaration into consideration, and represented to his Majesty divers Objections against it, and laid it aside, so that nothing was effected thereby to his Majesty's Purpose; the Parliament being otherwise minded, and certainly it is not only their Liberty, but Duty, to proceed in reforming Abuses by such Means as are in their Perswasion most suitable and likely to be effectual, otherwise they could not be faithful in their Trust. Greater Severities against Nonconformity are provided, in several Acts upon occasion, as the Act against private Meetings, 16 Car. 2. The expelling Ministers five Miles from Burrough Towns, 17 Car. 2. Especially that Act of 22 Car. intituled, *An Act to prevent and suppress Seditious Conventicles*; An Act very high and heavy in the Penalties expressed, both upon Ministers and People, his Majesty notwithstanding condescended to give his Royal Assent to that Bill. It being judged this Severity was taken up by them from good Intentions, and as the likeliest means of Peace and Union; as also if it proved not to be so, that they might be yet more fully convinced of the Insufficiency of such a way, having had hitherto, for some Years, experience how little effectual it hath proved.

Yet this Bill containing nothing for substance, but what was proper to his Ecclesiastical Power, being an ordering the Externals of the Church, and nothing of immediate Concern in Civil Affairs in the whole Act: And his Majesty having intentions to take the other Course, if this of Severity effected not what was aimed at, a Proviso is contained in the Act, in these words; 'Provided also, that neither this Act, nor any thing herein contained, shall extend to invalidate or avoid his Majesty's Supremacy
in

' in Ecclesiastical Affairs; but that his Majesty, and his
' Heirs and Successors, may from time to time, and at all
' times hereafter exercise and enjoy all Powers and Autho-
' rities in Ecclesiastical Affairs, as fully and amply, as him-
' self or any of his Predecessors have, or might have done
' the same, any thing in this Act notwithstanding.

As this Act of 22 *Car. 2.* was very strict and severe in
it self; so the execution of it, was with much Violence
and Rigour in most parts of the Nation, there being Provi-
sion made in it, such, as even loose and indigent Persons
may intrude themselves in the promoting thereof, with
encouragement not only of their Lusts gratified in perse-
cuting those they so much hate, but their Necessities sup-
plied from large Rewards for the same; Having Power gi-
ven to inform against Justices, Mayors, Constables, and
such as are intrusted in the Execution hereof, who are un-
der great Fines and Penalties, for Omissions limited in this
Act, and the Informer to have a Moiety hereof himself. In-
somuch that by the rigorous execution of it, thousands of
his Majesty's good Subjects were utterly ruined. Persons
industrious and diligent in their Callings, driven from their
Habitations, their Houses broken open, their Goods imbe-
zeled; the Materials of their Trades, the Tools they
wrought with, and the Beds they lay upon, seized and sold;
Trade every where decayed, Rents of Land fallen, Pover-
ty coming on like an Armed Man; Persons haled from
these Meetings for the Worship of God, through the open
Streets, to Prisons, being of the same Faith with us, and
so peaceable and unblameable in their Conversation, as that
nothing could be objected against them but in the Matters
of their God; nor for any thing upon that account, but
their endeavouring to practise as those Reformed Churches,
we our selves own for such, and hold a Brotherly Commu-
nion with as the true Churches of Christ.

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The Nation generally being thus distracted and distressed, those in Power going on still to make Laws to afflict and punish, and others engaged quietly to suffer whatsoever they should be exposed to for their Consciences : Matters being at this pass, there was apparent necessity that some Remedy be speedily applied.

His Majesty considering they are all his Subjects, and how much by such Severity the Interest of his Sovereignty is narrowed, so great a number of his People rendered unworthy of his Countenance and Protection, and upon no other Account or Crime, but their being of different Perswasions in some External of Religion, Persons otherwise for Industry, Faithfulness, Loyalty, and every way qualified to do his Majesty and their Country as much Service as others.

His Majesty also calling to mind that prudent Caution which his Royal Father left him in these words ; ' Take heed (*said he*) that outward Circumstances and Formalities in Religion, devour not all or the best Encouragements of Learning and Industry, but with an equal Eye, and impartial Hand, distribute Favours and Rewards to all Men, as you find them for their real Goodness, both in Ability and Fidelity, worthy and capable of them ; this will be sure to gain you the Hearts of the best, and most too.

It was likewise impossible for his Majesty to imagine that so many thousands (in his own Observation) who have suffered so greatly with such humble submission, should daily thus expose themselves and Families to ruin, from no other or better Principles than a Spirit of Obstinacy and Stubbornness ; great Sufferings, and by great Multitudes, yet no Tumults, no Resisting, whereas in the beginning of the Reformation, what Armies in the North, and in the West, upon

upon this Account, by those of another Perswasion, were raised, tho as yet they suffered little?

His Majesty, as a Common Father, beareth Affection to all his Subjects; but who of them deserves it, and who not, can never be discovered by this indiscriminating Severity; that is, who are Dissenters upon Principles of Conscience; and who of them so pretending, are notwithstanding of a Seditious Spirit?

These can never be distinguished one from the other, when Dissenters, and such as Conform not, be it upon what ground soever, are all of them equally branded with the same Mark of Disloyalty, and so represented to his Majesty, and all the Nation: There is a necessity that this Pretence of Conscience be removed, and Seditious Persons discovered, and left to condign Punishment; and others (these Stumbling-blocks being removed) may, by their peaceable Obedience to all other his Majesty's Laws, justify and vindicate their Integrity; which can no ways be done, while the Righteous are thus condemned with the Wicked; and no relaxing those Laws, that shut up all, both Guilty and Innocent, under the same Condemnation.

Of these Things his Majesty hath had a clear prospect all along, and thence publicly declared his avowed readiness (in his Proclamation *July 16. 1669.* and otherwise) to indulge Tender Consciences; and hath, upon the aforementioned, and the like weighty Considerations, been necessitated to publish this his Gracious Declaration of *March the 25th, 1671*, wherein he hath fully performed his Promise made at *Breda*, and so often repeated. Thus his Majesty, as a Wise and Prudent Prince, whose Station is fixed in an higher Orb, (like the Sun exhaling and consuming, or turning to refreshing Showers the dark Fogs and Mists here beneath) hath, by the Light and Liberty shining forth

forth from his Gracious Indulgence, refreshed multitudes of his Good Subjects, and delivered them from the dark misapprehensions of others. Nor is this their great Relief in any thing prejudicial, either to the Estates or Liberties of Men otherwise minded; nor are such Men abridged in any of their Concerns, Spiritual or Temporal, hereby; his Majesty hath made sufficient Provision for the satisfying their Consciences, in a careful continuing those Ceremonies and Forms of Worship they have been accustomed to; let it not be grievous or offensive unto them, that their Brethren have obtained the like favour from his Majesty in respect to their Consciences.

The Apostle requires, That we neither judg or despise those that differ from us, in Matters of the like Nature; but to leave a Man without molestation from us, to his own Master, to whom he standeth or falleth; his being in the right, or in the wrong (upon this account) is a Matter of his Master's concern, What is it to us? What have we to do to discipline another Man's Servant, for what his Master is pleased to bear with him?

S E C T. 6. Q U E S T. VI.

Since these Ecclesiastical Laws of Restraint were enacted by Parliament, the King giving his Royal Assent, had it not been convenient, if his Majesty had so pleased, that the dispensing with these Laws had been by Parliament ?

Ans. 1. The Kings and Princes of this Realm, his Majesty's Predecessors, did Establish many Things and Orders by Parliament, relating to Ecclesiastical Things; but did yet nevertheless often exercise their own Power in dispensing with the Penalties of such Laws. A constant acting with others in the exerting hereof, might (though no Prescription against the King) yet introduce at least in the Minds of Men a kind of suspicion, especially in the Vulgar, that such Proceedings of the Supream Majesty by his sole Power, to be an assuming an Arbitrary Government.

2. The Parliament did still continue in this their former Opinion and Judgment, namely, That a way of Severity was the only Means to settle Peace and Unity. They had newly passed the Act for Uniformity, without any abatement of what was Offensive; by reason whereof, arose that general Discontent which before we have mentioned.

His Majesty being sensible hereof, did, by that Declaration of *Decemb. 26.* move a second time, 'That an Act might be prepared, whereby he may be enabled with a more universal acceptation, to exercise the Power of Dispensing, which is inherent in him, not doubting their
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‘chearful cooperation with him, being a Matter wherein
 ‘he conceived himself so much engaged, both in point of
 ‘Honour, and in what he oweth to the Peace of his King-
 ‘doms, which We profess (*saieth he*) we can never think
 ‘secure, whilst there shall be a colour left to the Malicious
 ‘and Disaffected, to inflame the Minds of so many Multi-
 ‘tudes upon the score of Conscience, with despair of ever
 ‘obtaining any Effect of our Promises for their Ease. *The*
House returns this Answer, ‘We your Majesty’s dutiful and
 ‘loyal Subjects, who are now returned to serve in Parlia-
 ‘ment, from those several parts and places of your King-
 ‘dom, for which we were chosen, do humbly offer to your
 ‘Majesty’s great Wisdom, That it is in no sort advisable that
 ‘there be any Indulgence to such Persons who *presume* to
 ‘dissent from the Act of Uniformity, and the Religion esta-
 ‘blished, for divers Reasons, whereof this is one; It will
 ‘in no wise become the Gravity or Wisdom of a Parliament,
 ‘to pass a Law at one Session for Uniformity, and at the
 ‘next Session (the Reasons of Uniformity continuing still
 ‘the same) to pass another Law to frustrate or weaken the
 ‘Execution of it. So that now his Majesty had no other
 Remedy, but either,

1. To retract from that pious and seasonable Resolution
 for Liberty of Conscience, expressed in Letters to the Par-
 liament then sitting, from *Breda*, a Resolution so accepta-
 ble to them, as the whole House, *Nemine contradicente*, by
 Letters returned him Thanks, and bless the Name of the
 Lord, who put such reconciling thoughts into the Heart of
 the King; and he himself likewise owns an especial Bless-
 ing from God upon his Affairs, after he had expressed that
 Intention.

2. Or break that Promise he solemnly made, assuring
 this Liberty; and had professed to the World upon this
 I 2 Occasion,

Occasion, in his Speech *May 8. 1661.* that he valued himself much upon keeping his Word, and whatsoever he promised to his Subjects, and that no Man can be his Friend, and wish him well, who would perswade him to the consent of the breach of that solemn Promise.

3. Or leave the Nation under greater Distractions and Sufferings about Religion than he found it in; and upon twelve Years experience of other means used, which tended rather to increase the Distemper.

These dishonourable Things, I say, his Majesty must have suffered and undergone, or make use of that Power God and the Nation have intrusted him with, though not with concurrence of Parliament, so much and so often desired by him, *even so oft as He came to them*, as he tells them in his Speech of *July 8. 1661.* Yet nothing at any time was done by the Houses, in respect to Liberty of Conscience, being obliged in their Judgments to proceed in the other way.

C H A P. V.

Of former Examples for Indulgence.

S E C T. I.

HIS Majesty's Gracious Declaration contains not a greater Indulgence; tho it be extended to a greater number of Persons, than what was granted by his Majesty's Predecessors (which before we have mentioned) to the French and Dutch Congregations.

1. There

1. There was a Uniform Order in Church-Government and Divine Service, to which not only his Majesty's Subjects, but all the Inhabitants of his Majesty's Dominions were to conform, and no Man to absent himself: And not to hear or be present at any other Forms of Prayers, and administration of Sacraments, than what is in that Book prescribed, under Penalties of Ecclesiastical Censures, Fines to the King, to the Poor of the Parish, &c.

2. The Dispensation and Exemption was by the sole Authority of the Sovereign, and stands thus; A Liberty to separate and absent themselves from the Parish Assemblies, where they had their Habitations, and to gather themselves into distinct particular Churches or Congregations, to chuse and ordain their own Ministers; also to establish such a Church-Government, or Discipline, and Form of Worship and Divine Service, as they amongst themselves judged to be most conformable to the Scriptures, established by his Majesty's Patent as a Corporation within it self, and independent upon any Superior Jurisdiction Spiritual but his Majesty's: And all Bishops, Mayors, Sheriffs, &c. to protect them, and suffer them quietly to enjoy and exercise these Liberties, with a *Non Obstante*, &c.

3. The Grounds and Considerations upon which such Liberty and Exemptions were granted, were these:

1. The Care of Religion that ought to be in all Christian Princes, and to be shewed forth especially in this, the Relief and Encouragement of those that are of the same Religion, in their Sufferings for Conscience of their Duty towards God.

2. Persons of the same Religion with us, and Sacraments administered by them, according to the Word of God, and practice of the Apostles, ought to be tolerated in their way

way of worshipping God, though they differ from us in Ceremonies and Discipline.

3. The Kindness we found in other Protestant Countries, when we were forced to leave our Native Soil for preserving our Consciences.

4. There were also great Advantages in Matter of Trade, for their skill and industry, to the great benefit of this Nation, and prejudice of their own. *L. Herbert's History of Hen. 8.*

The Premises considered, we further say ;

1. His Majesty's Protestant Subjects here spoken for, to whom this Gracious Indulgence is extended, are of the same Religion with others of his Subjects, and the present Establishment, in respect to Matters of Faith and Worship in external Forms ; also they are not more differing from the Church of *England*, than those Congregations to whom the same Indulgence hath been granted by his Majesty and Predecessors, and is still enjoyed.

And when those Strangers had removed their Families, and come among us, had not this gracious Indulgence been granted and continued to them, their Consciences would have engaged them to depart hence, and seek Habitations where the like Liberty might be obtained. And this also is our Condition ; many hundreds of his Majesty's Subjects, with their Families, have left their Native Country, and dispose themselves into other parts of the World upon the same account.

2. If it be so grateful a Charity, and deserving so solemn an Acknowledgment, the kind Entertainment our Subjects have found in other Parts, when not suffered to live in their own Land, upon the account of Conscience, doubtless it is a greater Charity to be so indulgent to our own, as not by Severity to enforce them for Conscience to become Strangers in other Countries.

3. And

3. And for Matter of Trade, Advantages have been great by encouraging those Strangers; but the Disadvantages in the same kind far greater by the late Severity, by which our own Subjects have been so greatly discouraged; not only those Hands hang down, that were most industrious in holding up the staple Trade of the Nation; but by reason of Artificers removing into other Parts for their Consciences, the Mysteries of our chiefest Manufactures have been made common, and others therein become equal, if not exceed us: A great sense hereof his Majesty hath expressed in his Gracious Declaration.

Object. If it be said, *These be Strangers, Objects of Charity, being driven out of their own Country, understood not our Language, they were Educated and accustomed to other Forms of Discipline and Worship.*

Ans. 1. It's true, the first Grant of this Liberty was to such; but in process of Time, these Churches were increased and spread throughout the Nation; and this Grant being confirmed by *Q. Eliz. K. James*, and *K. Charles I.* to their Children, English born, and born Subjects of this Realm, they had the same Liberty granted them as formerly was mentioned; in so much, as the Persons now enjoying this Liberty, are his Majesty's Native Subjects.

Ans. 2. The greatest number of his Majesty's Protestant Subjects, that have benefit by his Gracious Indulgence since they have had understanding, have been trained up in, and been acquainted with no other Forms of Discipline and Worship, than what was found amongst us at his Majesty's return, the other, formerly establish'd, having been for many Years totally disused. King *James* himself being educated under other Forms, when he came into *England*,

land, scrupled many Things in our Liturgy and Rubricks. Conference at Hampt. Court. Finally;

It is now more than a Century of Years, wherein these Churches have enjoyed this Indulgence; there hath been much peace and quiet among themselves, following their Callings without disturbance; neighbourly and friendly Converse with those that are of different Perswasions in Matters of Religion.

No Disputings or Reasonings about it, no Judging or Despisng; experience hereof we have, beyond denial, in *London, Norwich, Canterbury, &c.* where diversity of practices, in the Forms of Discipline and Worship, are constantly held forth in the view of all Men for so many Years. And why should not we expect the like peaceable and in-offensive Converse mutually between those that now enjoy the like Liberty, from this Gracious Declaration, and others of our Brethren, whose practice is otherwise.

The Lord, who hath put this into the Heart of the King, may put it also into the Hearts of our Senators to be like-minded with him. And as his Majesty hath condescended to them in their way for the space of these twelve Years, (as he tells them); so it is to be desired that they (if it may stand with their great Prudence) would concur with him but half so long, in the way himself hath chosen, for the Peace and Union of his Subjects in Matters of Religious Worship; or at least until there be the like evident Experiments of the Ineffectualness of it.

F I N I S.

The same Author hath published a Book, intituled, The Lawfulness of the Oath of Supremacy, and the Power of the King in Ecclesiastical Affairs, &c. With a Vindication of Dissenters, proving, That their particular Congregations are not inconsistent with the King's Supremacy. With some account of the Nature, Constitution, and Power of the Ecclesiastical Courts. Sold by Jo. Robinson, and Sam. Creuch.